

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 697 - HB 1099

March 31, 2021

SUMMARY OF BILL: Authorizes the simple possession or casual exchange of marijuana and marijuana paraphernalia on the first day of the first month that is at least 30 days following the effective date of legislation passed by the United States Congress that removes marijuana from the federal Controlled Substances Act of 1970.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – If the United States Congress removes marijuana from the federal Controlled Substances Act of 1970, the proposed legislation will, on an annual basis: (1) decrease state incarceration expenditures up to \$423,200*, (2) decrease local revenue up to \$460,300, and (3) decrease local expenditures up to \$2,015,900.

Assumptions:

- The proposed legislation will reduce convictions for simple possession involving an amount of marijuana less than one-half ounce.
- Based on information provided by the Administrative Office of the Courts (AOC), there has been an average of 1,841 Class A misdemeanor convictions under Tenn. Code Ann. § 39-17-418 each year over the past five years. This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are a total of 18,410 convictions ($1,841 / 10\% = 18,410$) per year for misdemeanor violations of Tenn. Code Ann. § 39-17-418.
- The potential punishment for a Class A misdemeanor is up to 11 months, 29 days in jail, a fine up to \$2,500, or both.
- This analysis estimates that 10 percent, or 1,841 ($18,410 \times 10\%$) offenders, currently pay an average \$250 fine for simple possession.
- The proposed legislation will result in a recurring mandatory decrease in local revenue estimated to be \$460,250 ($1,841 \times \250).
- This analysis assumes 10 percent of offenders are spending an average of 15 days in local jail for Class A misdemeanor convictions of Tenn. Code Ann. § 39-17-418.
- Based on the 2020 Fiscal Review Committee survey, the weighted average cost to local governments to house an inmate in a local jail facility is \$73 per day.
- The proposed legislation will lead to a recurring mandatory decrease in local incarceration expenditures estimated to be \$2,015,895 ($\$73 \times 1,841 \text{ offenders} \times 15 \text{ days}$).

- Pursuant to Tenn. Code Ann. § 39-17-417(g)(1), one commits a Class E felony for manufacturing, delivering, selling, or possessing marijuana with intent to manufacture, deliver, or sell in an amount between one-half ounce and 10 pounds. The proposed legislation will result in fewer Class E felony admissions.
- Based on information provided by the Department of Correction (DOC), there has been an average of 239.5 admissions statewide per year for manufacturing, delivering, selling, or possessing with intent to sell marijuana between one-half ounce and 10 pounds.
- This analysis assumes offenders imprisoned for possession of marijuana possessed a substantial amount of marijuana, which likely exceeded one ounce. It is assumed that the proposed legislation will reduce these admissions by 10 percent (239.5 admissions x 10% = 24 admissions).
- The average time served for a Class E felony is 0.6 years (219.15 days).
- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- The proposed legislation will decrease recurring state incarceration costs by \$423,187 (24 admissions x 219.15 days x \$80.46).
- A decrease in the number of misdemeanor cases for multiple cannabis offenses listed under Tenn. Code Ann. Title 39, Chapter 17, will result in a decrease in state and local court costs. It is assumed that any such decrease will have a nominal impact on employment within such courts. Any decrease in court costs is estimated to be offset by a reduction in fee revenue received from individuals convicted and required to pay court costs and other necessary fees.
- The proposed legislation will not reduce the courts', district attorneys', or public defenders' caseloads enough to require a reduction in workforce.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/jg